

STATE OF ALASKA

LAND AUCTION #429

SALE BROCHURE

WHALE PASS
INDUSTRIAL / COMMERCIAL

A Public Outcry Auction of 16 Lots
Located on Prince of Wales Island
Near Whale Pass, Alaska

Auction Date: Wednesday, May 22, 2002

State of Alaska
Department of Natural Resources
Division of Mining, Land and Water
400 Willoughby, Suite 400
Juneau, Alaska 99801
(907) 465-3400

WHALE PASS INDUSTRIAL / COMMERCIAL

Auction # 429

A Public Outcry Auction of 16 Lots

Located Near Whale Pass, Alaska

Place of Auction: **Whale Pass Community Building
Whale Pass**

Date of Auction: **Wednesday, May 22, 2002**

Time of Auction: **Bidders' Registration 1:00 PM
Briefing and Auction 2:00 PM**

Subject to A.S. 38.04, A.S. 38.05, and the regulations implementing those laws, the Division of Mining, Land and Water will offer for sale by public outcry auction to the highest qualified bidder the following real property in Whale Pass Addition No.4 (Alaska State Land Survey No. 2000-24) and Whale Pass Addition No.5 (Alaska State Land Survey No. 2000-23), located near Whale Pass, Alaska, within the Ketchikan Recording District:

<u>Parcel</u>	<u>ADL Number</u>	<u>Legal Description</u>	<u>Size (Acres)</u>	<u>Map</u>	<u>Reservation</u>	<u>*Minimum Bid</u>
1	ADL 106773	ASLS 2000-24 Lot 8, Block 8	1.16	1	D	\$12,800
2	ADL 106774	ASLS 2000-24 Lot 9, Block 8	1.35	1	D	\$14,900
3	ADL 106775	ASLS 2000-24 Lot 10, Block 8	1.17	1	C, D	\$12,900
4	ADL 106776	ASLS 2000-24 Lot 11, Block 8	3.38	1	D	\$21,600
5	ADL 106777	ASLS 2000-24 Lot 1, Block 15	0.81	1	A, D	\$ 8,900
6	ADL 106778	ASLS 2000-24 Lot 2, Block 15	0.83	1	A, B, D	\$ 9,100
7	ADL 106779	ASLS 2000-24 Lot 3, Block 15	0.69	1	A, B, D	\$ 7,600
8	ADL 106780	ASLS 2000-24 Lot 4, Block 15	0.66	1	A, B, D	\$ 7,300
9	ADL 106781	ASLS 2000-24 Lot 5, Block 15	0.79	1	A, B, D	\$ 8,700
10	ADL 106782	ASLS 2000-24 Lot 6, Block 15	0.84	1	A, D	\$ 9,200
11	ADL 106783	ASLS 2000-24 Lot 7, Block 15	0.79	1	C, D	\$ 8,700
12	ADL 106784	ASLS 2000-23 Lot 4, Block 14	1.25	2	D	\$20,800
13	ADL 106785	ASLS 2000-23 Lot 5, Block 14	1.25	2	D	\$19,000
14	ADL 106786	ASLS 2000-23 Lot 6, Block 14	1.25	2	D	\$19,000
15	ADL 106787	ASLS 2000-23 Lot 7, Block 14	1.25	2	D	\$20,800
16	ADL 106788	ASLS 2000-23 Lot 8, Block 14	1.47	2	D, E	\$24,400

*(Appraisal dated May 8, 2001).

ALL PARCELS ARE OFFERED AS IS, WHERE IS, WITH NO IMPLIED OR EXPRESSED WARRANTY OF CONDITION WHATSOEVER.

Location

Whale Pass is an unincorporated community on the northeast coast of Prince of Wales Island about 80 miles northwest of Ketchikan, 80 miles north of Craig, and 64 miles north of Klawock. The land for sale is located within Section 25 of Township 66 South, Range 79 East, Copper River Meridian. The USGS Quad map is Petersburg A-4.

Maps with parcel numbers and survey information are included at the end of this brochure.

Reservation Codes

The following is a list of the easement reservations recorded on the plats of survey for Whale Pass Addition No.4 (Alaska State Land Survey No. 2000-24) and Whale Pass Addition No.5 (Alaska State Land Survey No. 2000-23) and referenced in the parcel description table on page 2 of this brochure. For more detailed information as to location of easements, prospective bidders should review the above survey plats.

- A. Subject to a temporary access easement that will terminate June 1, 2003. After that date, access to these lots will only be by the 60 right-of-ways noted as 'Owens Street' and 'Everett Street' on Alaska State Land Survey 2000-0024. There will be no access allowed across Tract A.
- B. Subject to a 10' drainage easement.
- C. Subject to a 10' non-motorized public access and utility easement.
- D. Subject to a 20' utility easement.
- E. Subject to a 50' section line easement.

Driveways and Access from Parcels 12-16

The lots in Whale Pass Addition No. 5 (Alaska State Land Survey No. 2000-23) do not have road access and will require Driveway Permits to access US Forest Service Road 3065. Before constructing a driveway to access this USFS road, **you must obtain applications and information about requirements from:**

Peggy Woodworth / US Forest Service / Thorne Bay Ranger District
PO Box 19001
Thorne Bay, AK 99919 Phone: 907-828-3304

Special Information

There is No Veteran's Land Discount For This Sale. (A.S. 38.05.940(a) veteran's land discount). This is a Commercial/Industrial Auction. The veteran's land discount does **NOT** apply to this type of sale.

The State does not allow entry upon this land, nor any other development activity, until a land sale contract is issued or until patent is received. It may take more than 3 months for the Department to issue a land sale contract or patent.

IMPORTANT

DEVELOPMENT REQUIREMENTS

The state will require that lots be developed within five years of contract issuance, with expenditures for improvements generally equal to or exceeding the appraised value (minimum bid as stated in this brochure) of the land at the time of purchase. Lots must be developed for commercial/industrial purposes and not for residential or recreational use, although a watchman's quarters, owner/operator residence or bunkhouse may be allowed as an accessory use.

Commercial/industrial uses include activities such as manufacturing, processing, repairing, and assembling. They include vehicle, marine, and equipment storage; heavy and light equipment repair and maintenance; commercial nurseries and greenhouses; commercial sawmills, shake, and shingle mills; hotels and lodges with four or more rental units.

Timber and Other Building Materials on Site

Purchasers are not permitted to sell or remove any timber from the parcel until they receive state patent to the land. Until patent is received, no surface resource such as gravel, sand, peat, topsoil, or any other material valuable for commercial use may be sold or removed from the parcel. Such materials may be used only on the parcel. **The State of Alaska may recover triple damages for timber and other surface resources removed from the parcel without authorization.**

Bidder Qualifications

To be a qualified bidder, an individual must complete and sign the Bidder's Registration Form that certifies that:

- **The bidder is at least 18 years of age on or before the date of the auction or is a corporation or business authorized to conduct business under the laws of the State of Alaska;**
- **The bidder has not held a purchase contract or lease issued by the department that has been administratively foreclosed or terminated for cause within the past three years;**
- **The bidder is not currently in default for nonpayment on a purchase contract or lease issued by the department; and,**

- **The bidder is not currently in default for nonpayment of municipal taxes or assessments on a purchase contract or lease issued by the department.**

An individual must be able to substantiate age upon request. **Successful bidders must provide photo identification, as sale documents will be notarized at the auction.** An individual acting as an agent for a corporation must present a copy of the corporation's certificate of compliance issued by the Alaska Department of Commerce and Economic Development and a corporate resolution authorizing the agent to bid and sign sale documents on behalf of the corporation.

An individual may be represented by an agent. The agent will be required to file, at the time of bidder registration, an original or certified true copy of a power-of-attorney properly executed by the person being represented. An agent may represent only one principal and a principal may only be represented by one agent. An agent may not participate for both the agent and the person or corporation being represented at this auction. Documentation of power-of-attorney of the successful bidder will be retained by the State in the individual case file.

Bidder Registration

Bidder registration will begin at **1:00 p.m.** on the day of the auction and will remain open for the duration of the auction. Only qualified bidders may register. An interested person or the person's agent should appear at the sale location on the designated date and time for registration to receive the benefit of the explanatory briefing concerning any additions, deletions, or changes made before the actual offering starts.

Auction Procedures

Only qualified, registered bidders may submit bids. The following procedures define the conduct of this public outcry auction:

1. Parcel 1 will be brought up for auction first, followed by the remaining parcels in ascending numerical order, as presented in this brochure.
2. Opening bid will begin at the fair market value (minimum bid) stated in this brochure.
3. Upon registering, bidders will be issued a numbered bidder identification card. Holding up this card in response to the dollar value called by the auctioneer constitutes a bid when the bidder is recognized by the auctioneer.
4. A bidder may withdraw a bid at any time before the hammer falls.
5. If a bid is made while the hammer is falling, the auctioneer shall decide whether the bid is timely or not.
6. The auctioneer may request confirmation of a bid if a bidder's conduct is confusing or distracting, or if it is clear that the bidder does not hear or understand the call or bid.

7. The auctioneer may withdraw any parcel from the auction before the hammer falls.
8. A bidder or spectator may be ejected from the auction if, in the judgement of the auctioneer, the person's conduct conflicts with the orderly proceeding of the auction.
9. Immediately after the hammer falls, the successful bidder shall pay the State a **bid deposit/downpayment of five percent (5%) of the purchase price and a \$100 document handling fee** by personal check, cash, certified check or money order, or a combination thereof. **The bid deposit/downpayment and document-handling fee are non-refundable.** The State will issue a receipt describing the land sold, the purchase price, and the amount deposited. The receipt shall be acknowledged in writing by the bidder. If a check is returned because of insufficient funds or a stop payment order, the State may cancel the sale contract for breach of contract and take appropriate legal action.
10. If the successful bidder/purchaser fails to comply with the conditions of this auction, the State may cancel the bid deposit/downpayment receipt or sale contract, if issued, whereupon the defaulting bidder/purchaser shall forfeit the bid deposit/downpayment and any other monies paid to the State together with interest from the date of the auction.
11. If it is determined that an ineligible bidder is the high bidder, the auctioneer shall, at the auctioneer's discretion: (a) reoffer the parcel at the end of the auction; or (b) pull the parcel from the auction. If it is not determined that an ineligible bidder was the high bidder until after the auction is adjourned, the parcel may be offered over-the-counter.
12. All parcels not purchased will be offered once again at the end of the auction in the same numerical order.
13. The auction will be declared adjourned when the auctioneer determines that the auction procedures have been fulfilled.

Right to Adjourn

The State reserves the right to reject any or all bids and to adjourn, postpone, or vacate this auction, in whole or in part, at any time prior to or during the offering, including the over-the-counter sale, where such action appears necessary to protect the interest of the State. One or more parcels may be added, modified, or withdrawn at any time prior to or during the auction and prior to or during the over-the-counter offering.

Prohibitions and Penalties

In accordance with AS 38.05.950, a person who bargains, contracts, or agrees, or attempts to bargain, contract, or agree with another that the other shall not bid freely upon or purchase any parcel of land of the State offered at public auction; or by intimidation, combination, or unfair management, hinders, prevents, or attempts to hinder or prevent, a person from bidding upon or purchasing a parcel of land offered is punishable by a fine of not more than \$1,000 or by imprisonment for not more than one year, or by both.

Terms of Sale

Successful bidders will be required to remit a **five percent (5%) deposit/downpayment of the purchase price and a \$100.00 document handling fee** in the form of money order, certified check, cash, or personal check or a combination thereof at the auction or over-the-counter sale. Checks used for the deposit/downpayment/document handling fee that are returned for any reason may invalidate the sale and all rights of the apparent successful bidder/purchaser will be terminated.

The contract of sale shall require the remainder of the purchase price to be paid in monthly or quarterly (as administratively determined) installments over a period of not more than 20 years.

Principal and interest payments will be set on a level-payment basis. Every land sale contract will provide for the payment of at least \$100 of principal each year, except for the final payment. The interest rate on all contracts will be the prime rate as reported in the Wall Street Journal on the first business day of the month in which the contract is sent to the purchaser for signature, plus three percent; however, the total interest may not exceed 13.5 percent. Interest begins to accrue on the date shown on the face of the contract. Purchasers may accelerate their payments at any time. The State does not charge a prepayment penalty.

Service Charge

Once the contract for sale has been executed, the purchaser shall pay a service charge for any late payment or returned check as follows:

(a) Late Payment Penalty. A breach caused by the failure of the purchaser to make payments required by the sale contract may be cured within 30 days after notice of the breach has been received by the purchaser. The purchaser will then be required to pay the amount in default plus \$50.00 or five percent (whichever is greater) of the amount in default.

(b) Returned Check Penalty. A service charge will be assessed for any check on which the bank refuses payment. If the bank refuses payment, the termination date for default on the contract shall remain unchanged. Late payment penalties under (a) of this section shall continue to accumulate.

Survey Information

A field survey has been completed for this subdivision. Lot corners and monuments are present in the field. The survey plats for the subdivisions may be viewed/purchased at the Division of Mining, Land and Water, Southeast Regional Office. Contact the Department of Natural Resources at the phone number or address listed on the cover to obtain copies of the survey plats.

Taxes and Assessments

The land sold in this sale will be subject to such taxes and assessments as may be levied by taxing authorities. The purchaser shall pay all taxes and assessments accruing against the parcel.

Site Conditions

The parcels included in this sale are of varying quality. Prospective purchasers are urged to inspect the parcels in advance and make their own judgement as to value, and whether the land will meet their intended use. By selling the land, the State does not give or imply any warranty as to the land's fitness, use, or suitability, or whether public utilities, roads, or services will be provided.

Wetlands

Portions of the lots offered for sale may include "wetlands". Wetlands are defined as areas such as swamps, marshes, lakes, or streams that are covered by water often enough and long enough for aquatic plants to grow there. Anyone putting any dredged or fill material into these wetlands (for example to build a driveway or building pad) must first get a permit from the District Engineer of the U.S. Army Corps of Engineers. For further information, contact the Army Corps of Engineers in Anchorage at 1-800-478-2712.

Valid Existing Rights

In accordance with AS 38.05.125, the state will reserve the mineral rights to these lots. These parcels are subject to any and all valid existing rights including, but not limited to, oil and gas leases, and valid rights-of-way for roads, highways, power lines, and pipelines.

Classification and Zoning

The parcels for sale in this auction are classified "Settlement " and are closed to mineral entry. The parcels are within the unorganized borough and are not zoned.

Individual Water and Sewer Systems

No individual water supply system or sewage disposal system shall be permitted on any lot unless such system is located, constructed, and equipped in accordance with the requirements of the Alaska Department of Environmental Conservation (ADEC). The successful purchaser is responsible for providing any necessary water and sewer system. The State does not provide percolation tests, wells, or other soil or water determinations. It is the responsibility of the purchaser to meet ADEC requirements for sewage disposal.

The Alaska Water Use Act provides the public with a legal method to obtain water rights for the use of surface and subsurface waters. To obtain water rights, a person must apply for a permit, make beneficial use of the water, and then be granted a Certificate of Appropriation from the Department of Natural Resources. Further information about water rights and application forms may be obtained from the DNR Regional Offices.

State Title

This land, selected under National Forest Community Grant No. 148, was patented to the State on January

31, 1989 under patent # 50-89-0135.

General Conditions

It is the responsibility of the purchaser to properly locate the property boundaries, easements affecting the property, and any improvements which may be placed upon the property.

Occasionally, technical defects in a sale brochure are discovered after it has been distributed, necessitating some changes in the details of the auction. In addition, adjustments to terms may be made. Therefore, while the offering will be held substantially as described in this brochure, the State reserves the right to make such changes and adjustments.

Over-The-Counter Offering

Parcels not sold during the Outcry Auction at Whale Pass will be offered Over-the-Counter (OTC) beginning June 11, 2002.

OTC Application Requirements

In order to qualify for inclusion in the initial OTC opening, completed application packages must be received by 5:00 p.m. Monday, June 10, 2002.

Mail-in applications are accepted only in the Southeast Regional Office (address noted on the cover of this brochure). Applications mailed to other DNR offices will be returned to the applicant. Applications for parcels already taken will be returned to the applicant.

All OTC purchase applications, whether submitted in person or by mail, must include:

- A completed Over-the-Counter Application form. If purchasing multiple parcels, complete a separate application for each parcel.
- A non-refundable \$100.00 document handling fee **for each parcel**. (Personal checks accepted for this fee.)
- A down payment of five percent of the minimum bid amount for each parcel the applicant wishes to purchase, in the form of a cashiers check, certified check, or money order. **NO PERSONAL CHECKS WILL BE ACCEPTED at the initial OTC opening for the down payment.** However, upon completion of the initial opening, all remaining parcels become available at the DNR Public Information Offices and personal checks will be accepted. And,
- A completed Declaration of Intent form.

OTC Applications may be made by an agent with power of attorney. An agent may only represent one person per day, in addition to himself. The OTC sale is not limited to one parcel per person.

Applications will not be accepted by phone, by fax, or by email.

On Tuesday, June 11, 2002, the Southeast Regional DNR Public Information Office in Juneau will open at 8:30 a.m. At 9:00 a.m. the OTC Sale will begin at the Juneau office. Members of the public may attend and observe the drawing but will not be allowed to change or retract any bids.

During the initial OTC opening, a lottery to determine the winning applicant will be held for any parcel where multiple applications have been received. The five percent down payment and application fee will be returned to any applicant who is not successfully awarded a parcel. The five percent deposit and application fee is, however, forfeited to DNR if an applicant is selected and then subsequently decides not to go forward with the purchase.

Applicants do not need to be present to win. Following the initial opening, a list of successful applicants will be available at the DNR Public Information Offices and all remaining parcels become immediately available. For online information, including a list of successful applicants, visit our website at <http://www.dnr.state.ak.us/mlw/landsale>.

Individuals interested in participating in the offering should contact the Department of Natural Resources at the phone number or address listed on the cover with any questions.

Appeals

An aggrieved bidder may appeal in writing to the Commissioner of the Department of Natural Resources within five days after the auction for a review of the Director's determination of the successful bidder. All appeals should reference Auction Number 429 and should be sent to the following address:

**Commissioner
Department of Natural Resources
550 West 7th Ave.
Anchorage, AK 99501-3557**

Acceptance of Terms

This sale is made subject to the terms and conditions set forth in this disposal brochure and as announced at the auction under the provisions of Alaska Statutes Title 38.04 and 38.05, Alaska Administrative Code Title 11, Chapters 54 and 67. These and other statutes and regulations are available for review at Department of Natural Resources offices and may be available at law libraries and courthouses. A purchaser, by making a bid at the auction or at the over-the-counter offering, or through assignment, agrees to abide by those terms and conditions.

Auction Postponement

Unforeseen difficulties, such as weather conditions, may require a change in the time of the auction. In such cases, the auction will be rescheduled for the earliest reasonable date. All efforts will be made to advise the public of any changes. The Southeast Regional Office will have current information on the rescheduling; such information will be available by phone (907-465-3400) on any workday.

PARCEL NUMBERS

Whale Pass
Industrial / Commercial

MAP 1
ASLS 2000 - 24



